



**A REGULAR MEETING  
OF THE WESLACO CITY COMMISSION  
TUESDAY, MARCH 3, 2015**

On this 3<sup>rd</sup> day of March 2015 at 5:33 p.m., the City Commission of the City of Weslaco, Texas convened in a Regular Meeting at City Hall in the Legislative Chamber, located at 255 South Kansas Avenue with the following members present:

Mayor	David Suarez
Mayor Pro-Tem	Olga Noriega
Commissioner	David R. Fox
Commissioner	Greg Kerr
Commissioner	Gerardo “Jerry” Tafolla
Commissioner	Lupe Rivera
Commissioner	Fidel L. Pena, III
Interim City Manager	Mike R. Perez
City Secretary	Elizabeth Walker
City Attorney	Frank Garza

Also present: Juan Salas, IT Department; Sonia Flores, Assistant Finance Director; Veronica Ramirez, Human Resources Director; David Salinas, Public Utilities Director, Trinidad Cantu, Assistant Public Utilities Director; Mardoqueo Hinojosa, City Engineer/Planning Director; Interim Chief Chris Sanchez, Fire Department; Captain Ted Walensky, Police Department; David Arce, Parks and Recreation Director; Olga Garza, Public Facilities Interim Director; Arnold Becho, Library Director; Martin Mata, Library Assistant Director; and other staff members and citizens.

**I. CALL TO ORDER**

- A. Certification of Public Notice.  
Mayor Suarez called the meeting to order and certified the public notice of the meeting as properly posted Friday, February 27, 2015.
- B. Invocation.  
Pastor Faron Thebeau from Primera Bautista Church delivered the invocation.
- C. Pledge of Allegiance.  
Mayor Suarez recited the Pledge of Allegiance and the Texas flag.
- D. Mayoral Proclamations.  
Mayor Suarez recognized Youth Art Month.
- E. Roll Call.  
Elizabeth Walker, City Secretary, called the roll, noting perfect attendance.

## **II. PUBLIC COMMENTS**

Martin Garcia Jr. thanked the Commission for the opportunity to host the 4<sup>th</sup> Annual Movies at the Park event this year.

## **III. CONSENT AGENDA**

The following items are of a routine or administrative nature. The City Commission has been furnished with background and support material on each item, and/or it had been discussed at a previous meeting. All items will be acted upon by one vote without being discussed separately unless requested by one commission member, in which event the item or items will immediately be withdrawn for individual consideration in its normal sequence after the items not requiring separate discussion have been acted upon. The remaining items will be adopted by one vote. Possible action.

- A. Approval of the Minutes of the Regular Meeting on February 17, 2015. (Staffed by City Secretary's Office.) Attachment.
- B. Approval on Second and Final Reading of the following:
  - 1.) Ordinance 2015-06, amending Ordinance 320 and the City of Weslaco Zoning map to rezone 1015 South International Boulevard, also being 1.53 acre Tract of Land out of Farm Tract 1098, West and Adams Tract Subdivision, Weslaco, Hidalgo County, Texas, from R-1 One Family Dwelling District to B-2 Secondary Highway Business District. (First Reading held on February 17, 2015; Staffed by Planning and Code Enforcement Department.) Attachment.
  - 2.) Ordinance 2015-07 amending Article III, Section 27-57 Uniformity; Official Devices of the Traffic Ordinance of the City of Weslaco to install a four way stop sign at the intersection of Calle De La Republica and Llano Grande Street. (First Reading held on February 17, 2015; Staffed by Planning and Code Enforcement Department.) Attachment.
  - 3.) Ordinance 2015-08, the "Peddlers and Solicitors Ordinance," in order to amend ordinance number 96-14, codified as Part II Chapter 102 of the Weslaco Code of Ordinances, adopting new regulations, repealing prior ordinances and providing for severability. (First Reading held on February 17, 2015; Staffed by Planning and Code Enforcement Department.) Attachment.
- C. Authorization of the solicitation of Request for Proposals (RFPs) for the Firework Display at Mayor Pablo G. Pena City Park on Saturday, July 4<sup>th</sup> 2015, and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.) Attachment.
- D. Approval of the renewal of the lease agreement with South Texas College for the use of Mayor Pablo G. Pena City Park Tennis Courts for Kinesiology classes, January 1 - December 31, 2015, and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.) Attachment.

- E. Approval of the renewal of the agreement for “2015 Movies at Park” at Mayor Pablo G. Pena City Park and/or Harlon Block Park and authorize the Mayor to execute any related documents. (Staffed by Parks and Recreation Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the consent agenda as presented. Commissioner Fox requested to withhold item III. B(3) for further discussion.

Commissioner Tafolla, seconded by Commissioner Rivera, amended the motion to approve items III. A, B(1), B(2), C, D, and E as presented. The motion carried unanimously; Mayor Suarez was present and voting.

Commissioner Fox requested that applicants initial each item of their permit upon submission to ensure their understanding of the ordinance. Commissioner Tafolla, seconded by Commissioner Fox, moved to approve item III. B (3) as presented. The motion carried unanimously; Mayor Suarez was present and voting.

For the record, the Ordinances read as follows:

**ORDINANCE NO. 2015-06**

**AN ORDINANCE AMENDING ZONING ORDINANCE NO. 320 AND AMENDING THE ZONING MAP OF THE CITY OF WESLACO TO CHANGE THE ZONING OF 1015 S. INTERNATIONAL BOULEVARD, ALSO BEING 1.53 ACRE TRACT OF LAND OUT OF FARM TRACT 1098, WEST AND ADAMS TRACT SUBDIVISION, WESLACO, HIDALGO COUNTY, TEXAS, FROM R-1 ONE FAMILY DWELLING DISTRICT TO B-2 SECONDARY HIGHWAY BUSINESS DISTRICT.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS:**

**SECTION I:** R-1 Single Family Dwelling District to B-2 Secondary Highway Business District being 1.53 acre Tract of Land out of Farm Tract 1098, West and Adams Tract Subdivision, also being 1015 S. International Boulevard, Weslaco, Hidalgo County, Texas.

**SECTION II:** That this ordinance shall become effective upon its passage.

**PASSED AND APPROVED** on first reading at a regular meeting of the City Commission this 17<sup>th</sup> day of February, 2015.

**PASSED AND APPROVED** on second reading at a regular meeting of the City Commission this 3<sup>rd</sup> day of March, 2015.

**ORDINANCE NO. 2015-07**

**AN ORDINANCE AMENDING ARTICLE III, SECTION 27-57 UNIFORMITY; OFFICIAL DEVICES OF THE TRAFFIC ORDINANCE OF CITY OF WESLACO TO INSTALL A FOUR WAY STOP SIGN AT THE INTERSECTION OF CALLE DE LA REPUBLICA AND LLANO GRANDE STREET.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO, TEXAS:**

SECTION I: Section 27-57 Uniformity Official Devices of the traffic Ordinance of the City of Weslaco, all signs and signals required under this chapter for a particular purpose shall, so far as practicable, be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this chapter shall be official traffic control devices: To install a four way stop signs at the intersection of Calle De La Republica and Llano Grande Street.

SECTION II: That this ordinance shall become effective upon its passage.

PASSED AND APPROVED on first reading at a regular meeting of the City Commission this 17<sup>th</sup> day of February, 2015

PASSED AND APPROVED on second reading at a regular meeting of the City Commission this 3<sup>rd</sup> day of March, 2015.

### **ORDINANCE 2015-08**

**AN ORDINANCE REPEALING ORDINANCE NUMBER 96-14, THE CITY OF WESLACO PEDDLERS AND SOLICITORS ORDINANCE; CODIFIED AS PART II CHAPTER 102 OF THE WESLACO CODE OF ORDINANCES, ADOPTING NEW REGULATIONS; AND ORDAINING OTHER MATTERS WITH RESPECT TO THE SUBJECT MATTER HEREOF.**

**BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WESLACO TEXAS THAT:**

#### **SECTION I.**

Ordinance 96-14 passed and approved on August 6, 1996 as "Peddlers and Solicitors Ordinance" and Codified as Part II Chapter 120 of the Weslaco Code of Ordinances is hereby repealed in its entirety.

#### **SECTION II.**

After second and final reading of this Ordinance the new peddlers and solicitors ordinance will be adopted and codified as Part II Chapter 120 of the Weslaco Code of Ordinances and said Chapter shall read as follows:

### **PART II CHAPTER 120 PEDDLERS AND SOLICITORS**

#### **Sec.102.01 Garage, Porch, and yard sales**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Garage, porch, and yard sale means a sale of merchandise, whether new or used, from any residence located in any single-family residential or duplex and apartment zoning classification or in an unimproved lot zoned single-family residential, provided the person conducting the garage, porch, or yard sales has written permission from the owner of the property.

(b) *Permit.* The owner or occupant of a house or unimproved property in any of the zones described in subsection (a) of this section, before conducting a garage, porch or yard sale, shall obtain a permit from the Code Enforcement Division of the city, which shall enforce such

permit. The City Police Department shall also assist in the enforcement of this section.

- (c) *Cost.* The cost for the permit required by this section shall be \$10.00.
- (d) *Limit.* The owner or occupant of such property wishing to conduct thereon a garage, porch or yard sale shall be limited to four permits per calendar year, each of such permits to cover a period of time not to exceed three consecutive days.
- (e) *Unauthorized sales.* It shall be unlawful for the owner or occupant of such premises to conduct thereon a garage, porch, or yard sale without having first obtained the permit required by this section.
- (f) *Advertisement.* It shall be unlawful for the owner or occupant of such premises to place or cause to be placed any signs advertising such sale on any utility poles or public rights-of-way.
- (g) *Penalties.* Any person who violates this section shall, upon conviction thereof, be fined the amount of \$50.00.

**Sec.102.02 Soliciting from occupants of vehicles prohibited; causing a child to solicit from occupants of vehicles prohibited; penalty.**

- (a) It shall be unlawful for a person to stand on a traffic median, shoulder, improved shoulder or sidewalk and solicit, or attempt to solicit, employment, business or charitable contributions from the occupants of any vehicle on a roadway.
- (b) It shall be unlawful for a person to knowingly cause a child ten (10) years of age or younger to stand on a traffic median, shoulder, improved shoulder or sidewalk and solicit, or attempt to solicit, employment, business or charitable contributions from the occupants of any vehicle on a roadway.
- (c) For purposes of this section, the term "cause" shall mean aid, direct, hire, encourage, permit, or allow.
- (d) Violation of any portion of this section constitutes a misdemeanor punishable by a fine not to exceed two hundred dollars (\$200.00).
- (e) Notwithstanding the other provisions of City Code of Ordinances, a person seventeen (17) years of age or older may solicit employment, business or charitable contributions while standing on a traffic median, shoulder, improved shoulder, sidewalk, or the improved portion of the roadway from occupants of any vehicle on a roadway provided said person wears a florescent orange visibility vest, does not impede traffic, enters or remains in a roadway only while the controlling traffic signal prohibits vehicle movement, and has obtained a permit to do so, or who is a member of an organization which has obtained a permit to do so, from the Planning & Code Enforcement Department.
- (f) Permits may be issued to no person or organization more than twice per calendar year for a period of no more than two (2) consecutive days, and between the hours of 9:00 a.m. and one (1) hour before sunset.
- (g) The Planning Director or designee shall issue a solicitation permit upon application provided said application states the name and address of the person or organization for whom solicitations are made, the names and addresses of the persons soliciting, the locations at which soliciting will take place, and the times during which the soliciting will take place.
- (h) Permit applications must be accompanied by a fee of seventy five (\$75.00) and a certificate of insurance signed by an agent authorized to bind coverage indicating that the applicant has obtained, at his sole expense, insurance coverage (1) that is written by an insurance company with an A- or better rating by AM Best and that is admitted and licensed to do business in the State of Texas; (2) that is in full force and effect for the duration of the permit period; (3) that provides

one million dollars (\$1,000,000.00) of liability coverage per occurrence with no deductible; (4) that insures the applicant and all persons who will be soliciting; (5) that names the City of Weslaco, its officers, employees, and elected representatives as an additional insured; (6) that provides that any insurance or self-insurance maintained by the city shall apply in excess of and not contribute with it; (7) that is written on an occurrence basis; and (8) that is otherwise acceptable to, and approved by, the Planning Director or designee.

- (i) Notwithstanding the other provisions of the City Code of Ordinances, a person sixteen (16) years of age or older may solicit the sale of newspapers to occupants of motor vehicles from sidewalks, walkways, raised medians, islands and other off-roadway surfaces and may deliver the newspaper to any such occupant who responds to the solicitation in order to complete the sales transaction so long as doing so does not impede traffic flow and provided that such person wears a fluorescent orange visibility vest. The owner and publisher of the newspaper will be responsible for periodically monitoring the activity of any such solicitor under the age of eighteen (18), such monitoring to be done by an agent or employee of the newspaper who is at least twenty-one (21) years of age. Any solicitor under the age of eighteen (18) must have the consent of a parent or adult having custody of the child. The owner and publisher of any newspaper distributed pursuant to subsection (i) shall maintain at its sole expense insurance coverage:

- a. That is written by an insurance company with an A- or better rating by AM Best and that is submitted and licensed to do business in the state;
- b. That is in full force and effect at any time sales and distribution are being conducted pursuant to subsection (i);
- c. That provides one million dollars (\$1,000,000.00) of liability coverage per occurrence;
- d. That insures the newspaper and all persons who will be selling and distributing on its behalf;
- e. That names the city, its officers, employees and elected representatives as additional insures;
- f. That provides that any insurance or self-insurance maintained by the city shall apply in excess of and not contribute with it; and
- g. That is written on an occurrence basis.

The owner and publisher shall file and keep current a certificate of insurance signed by an agent authorized to bind coverage indicating that the owner and publisher has obtained the aforementioned insurance coverage, with the Planning Director or designee.

### **Sec.102.03 Mobile Food Vendors.**

#### **(a) Definitions**

- a. *Edible goods* may include, but are not limited to:
  - i. Prepackaged food including, but not limited to candy, beverages, and ice cream.
  - ii. Prepared food including, but not limited to hot dogs, desserts, and pizza.
  - iii. On-site prepared food including, but not limited to shaved ice, sandwiches and tacos.
- b. *Mobile food vendors* shall mean any business which sells edible goods from a non-stationary location within the city. The terms shall include, but not be limited to:
  - i. Mobile food trucks: a self-contained motorized unit selling items defined as edible goods.
  - ii. Concession trailers: a vending unit which is pulled by a motorized unit and has no power to move on its own.
- c. *Non-refrigerated* shall mean edible goods that are not required to be kept at a

temperature below 41 degrees Fahrenheit according to the Federal Food and Drug Administration and the Texas Food Establishment Rules.

(b) *Permit and application.*

- a. *Permit.* Every mobile food vendor shall have a permit issued by the city to conduct business in the city.
- b. *Application.* Every mobile food vendor shall apply for a permit on a form promulgated by the city. Each vending unit requires a separate permit.
- c. *Permit form.* A complete application shall require the following information from the applicant to be considered:

- i. Name of applicant.
- ii. Legal name of business or entity.
- iii. State of incorporation or filing of a partnership or articles of association.
- iv. If applicable, copy of charter or articles of incorporation and current listing of the directors, partners, or principles.
- v. Sales tax number with a copy of sales tax permit.
- vi. Signed permission form or provide notarize affidavit from the private property owner granting permission for unit placement.
- vii. Name, phone number and driver's license number of business owner.
- viii. Proposed itinerary with route, vending locations and times.
- ix. Contact name and phone number for mobile food vending unit while in route.
- x. Description of product being sold.
- xi. Vehicle identification number and description of mobile food vending unit.
- xii. Signed affidavit with photo identification that each individual applicant:
  1. Has no unpaid civil judgments against him or her in any state of U.S. possession which arise from a business activity which would have been covered by this section if in effect at the time in the jurisdiction where such judgments are of record.
  2. A statement of all convictions in any state, the United States or U.S. possession within the last ten years.

d. *Permit fee.*

- i. The application fee for a mobile food vendor permit shall be \$150.00. Each mobile food vendor unit shall be permitted separately.
- ii. Mobile food vendor permits shall be valid for one year from the date of permit issuance.
  1. Upon renewal the applicant shall pay the renewal \$100.00 fee, and update any changes in the permitting documentation upon permit renewal. The applicant must submit the application and the renewal fee within 30 days before expiration of the permit or must reapply as a new applicant.

e. *Permit denial.* A permit may be denied where:

- i. An applicant is found to have an unpaid civil judgment(s) against him which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments; or
- ii. An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity; or
- iii. The required information is incomplete or incorrect or shows that a

- person is not otherwise entitled to conduct business as a mobile food vendor.
- iv. The opportunity to issue a permit has been denied due to previous violations as described in this section.
  - f. *Display of permit.* Every permit, including those from the city, shall be displayed at all times in a conspicuous place where it can be read by the general public on the mobile food vendor's truck or concession trailer.
  - g. *Permit revocation or suspension.*
    - i. A permit may be revoked upon conviction of any offense committed by an individual operating as a mobile food vendor in the city while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.
    - ii. A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram
    - iii. Any employee working for an applicant permitted as an employer under this section above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
    - iv. A permit may be suspended or revoked for not complying with the requirements of this section, or any other ordinances, or laws.
  - h. *Appeal of permit revocation, suspension, or denial.*
    - i. The notice of revocation, suspension, or denial of a permit shall include the procedure for appealing the suspension, revocation, or denial.
    - ii. If a city official revokes, suspends, or denies a mobile food vendor permit, the holder or applicant of the permit which had been revoked, suspended, or denied, shall have the right to appeal to the city manager or designee by submitting an appeal in writing to the health director within ten business days of the revocation, suspension, or denial.
    - iii. Pending action on the appeal, a permit which had been revoked or suspended shall be considered revoked or suspended.
    - iv. If a written appeal is not submitted within the ten business days of revocation, suspension, or denial, or if the appeal is denied, the permit shall hence be considered revoked, suspended or denied.
  - i. *Reapplication after revocation, suspension, or denial of permit.*
    - i. If a mobile food vendor or applicant is not in compliance with this section or any other ordinance, law or the approved vendor application, the following action will be taken:
      - 1. *1st violation.* A warning may be issued, or the permit may be revoked or suspended and the vendor may become ineligible for a new or reissued permit for 90 consecutive days.
      - 2. *2nd violation.* Permit will be revoked and the vendor may become ineligible for a new or reissued permit for 90 consecutive days.
      - 3. *3rd violation.* Permit will be revoked and the vendor will become ineligible for new or reissued permit for one year.
      - 4. If an applicant's permit has been denied and the appeal is denied the applicant may not reapply for 90 consecutive days.
- (c) *Zoning and location restrictions.*
- a. *Distance regulations.*



- i. No mobile food vendor shall conduct business within any single-family residential or agricultural zoning district unless otherwise approved in writing by the health official.
    - ii. A mobile food vendor may not be located within 100 feet of the primary entrance of an open and operating fixed-location food service establishment.
  - b. A mobile food vendor shall not conduct sales at a stationary location:
    - i. For a duration exceeding eight hours per location per day.
    - ii. For a duration exceeding 30 minutes on any public street.
    - iii. On any public street designated on the city's [thoroughfare] plan as a major collector or greater.
    - iv. In congested areas where the operation impedes vehicular or pedestrian traffic.
    - v. Between the hours of 3:00 a.m. and 6:00 a.m.
  - c. *Location regulations.*
    - i. No mobile food vendor shall be located on any private property without written permission to do so and must comply if asked to leave by the property owner or city official. A copy of the written permission to operate in a specific location signed by the private property owner shall be kept within the mobile vending unit at all times.
    - ii. No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill.
    - iii. No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by the property owner or city not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement".
    - iv. No person shall sell or offer for sale any item upon any premises if requested by the property owner or city official not to do so, or if there is placed at or near the entrance thereof a sign bearing the words "no peddlers or vendors" or "no trespassing" or "no solicitors."
- (d) *Mobile food vendor requirements.*
  - a. The following regulations shall apply to mobile food vendors within any zoning district:
    - i. Mobile food establishments shall operate from a central preparation facility or other permitted fixed food establishment and shall report to such location for supplies and for cleaning and servicing operations.
    - ii. Each unit shall be equipped with a portable trash receptacle, and shall be responsible for proper disposal of solid waste and waste water in the sanitation facility legally accessed by the food service establishment. All disturbed areas must be cleaned following each stop to a minimum 20 feet of the sales location.
    - iii. Mobile food vendor may not have a drive through.
    - iv. Mobile food vendor may be allowed to have multiple locations within a day but not exceeding eight hours of operations per location.
    - v. Continuous music or repetitive sounds shall not project from the mobile unit.
    - vi. A five-foot clear space can be maintained around the mobile food vending unit.
    - vii. The mobile unit will be subject to inspection upon permit application through the code enforcement and the fire marshals office, and may be subject to random inspections and upon reissuance of the permit.
    - viii. No sales are allowed within public park facilities while park concession units are operating.
    - ix. A "No Smoking" sign must be posted next to the order window or area.
    - x. A tagged fire extinguisher shall be kept accessible as directed by the city fire marshal or designee.
    - xi. An extinguishing vent hood, Type 1 or other if approved by the city fire

marshal, shall be required when the cooking process produces grease laden particles within the mobile unit. Said hood shall require testing in the presence of a city fire marshal designee.

*(e) Offenses and regulations.*

- a. It shall be unlawful for any individual as the agent or employee of another regulated under this section to sell edible goods in the city unless it's principal or employer has received a permit under this section.
- b. A permit issued under this section is not transferable.
- c. It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the city in the name of another individual, organization, or entity.
- d. It shall be unlawful for any individual directly or through an agent or employee to sell goods within the corporate limits of the city after the expiration of the permit issued by the city under this section.
- e. It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this section.
- f. It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the city constitutes the city's endorsement or approval of the product for sale.
- g. It shall be unlawful to operate a mobile food vendor operation that is not in compliance with the Texas Food Establishment Rules as amended from time to time.
- h. A violation of this section is a Class C misdemeanor and shall be punished by a fine pursuant to the general penalty set out in section 1-5 of this Code.

*(f) Exemptions.*

- a. Individuals selling only non-refrigerated farm products in an unrefined state shall be considered as a mobile food vendor, as defined by this division, but shall be exempt from the requirements of this section.

**Sec.102.04 Fundraisers / Plate Sales**

*(a) Definitions:* The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- a. **Fundraising:** means a person who is gathering voluntary contributions of money or other resources.
- b. **Plate sale:** means a person who sets up temporarily to Barbecue or cook food on an occupied property whose owner has agreed in writing to allow access to bathroom facilities and parking as required by the business.
- c. **Services:** useful labor that does not produce a tangible commodity
- d. **Nonprofit Organization:** means a business entity that is granted tax-exempt status by the Internal Revenue Service.
- e. **Church Organizations:** All religious organizations must provide tax-exempt status from the Internal Revenue Service (IRS).
- f. **Food Handler License:** It shall be unlawful for any person to handle food without obtaining a food handling certification. A minimum of two hours of food sanitation training is required every three years to ensure employee performance of their duties in accordance with food service sanitation ordinances, rules and regulations.
- g. **Peddler:** means any person with no fixed place of business who goes from house to house, from place to place, or from street to street, carrying or transporting goods, wares, or merchandise and offering or exposing the same for sale, or making sales and deliveries to purchaser.
- h. **Solicitor:** means any person who goes from house to house, from place to place, or from street to street soliciting or taking or attempting to take orders for any goods, wares, or merchandise, including books, periodicals, magazines, or personal property of any nature whatsoever, for future delivery. The term "solicitor" does not include any person taking or attempting to take orders to be filled by goods, wares,

or merchandise delivered to the purchaser from other states.

(b) License—Required.

No organization, peddler, solicitor or person shall sell or offer to sell any food, merchandise or provide services within the city unless a license therefore shall first be secured as provided in this section.

(c) Application and issuance.

- a. Application for such license shall be made to the city's planning and code enforcement department on a form supplied by the city. The application shall state:
  - i. The name and address of the applicant and all persons associated with him in his business or organization.(proof of identification required).
  - ii. The type of sale or services for which the license is desired.
  - iii. Written permission from the owner of record of the property on which the use is to be located. If the location is a business the letter must have an original letter head from such business. Letters with a business stamp and a managers or supervisors signatures will not be allowed.
  - iv. The length of time for which the license is desired.
  - v. A general description of the things to be sold or services rendered.
  - vi. The place of residence of the applicant for the five years preceding the date of application.
  - vii. The blank applications shall be issued upon a nonrefundable payment of \$50.00, which shall not be credited on the license fee if the license is granted. Every application shall bear the written approval of the chief of police after an investigation of the moral character of the applicant is conducted. The completed application shall be presented to the city's planning department for its consideration, and, if granted, a license shall be issued upon payment of \$10.00.

(d) Nontransferable.

A license issued under the provisions of this chapter shall not authorize any person other than the person named in said license to engage in business there under, and such license shall not be transferable.

(e) Required to be carried during conduct of sale.

Every person licensed under this section shall have with him, while engaged in such sale, the license received by him from the city, and shall produce the same at the request of any city official or at the request of any individual within the city to whom he is selling or attempting to sell the same.

(f) Requirements.

All plate sales or services offered with in the city must meet the following requirements:

- a. No person providing plate sales or services will be allowed from a vacant lot or any street right-of-way easement, sidewalk or alley.
- b. No person providing plate sales or services will be allowed on FM 88 (Texas Blvd.) rights-of-way between the city limits.
- c. All plate sales or services provided by any person shall operate with equipment and/or displays that can be entirely removed from the site at the end of each day of operation.
- d. All persons providing plate sales or services have permission from the owner of

record of the property where an already established legally conforming business use exists to allow the applicant to share parking and restroom facilities provided and maintained by the main business use on the lot, and both businesses must continue to be in compliance with all city health codes and ordinances.

- e. The code enforcement department (and other departments, as necessary) shall inspect the site for compliance to normal regulations, such as health requirements for a food vendor, and parking regulations for the site. Such department shall issue citation and summons as necessary for any violation this article.

*(g)* Practices prohibited.

No person licensed under the provisions of this chapter shall within the city call attention to his business or to the goods, wares or merchandise which he is selling or offering for sale by crying them out, blowing a horn, ringing a bell or by any loud or unusual noise.

*(h)* Nonprofit charitable organizations.

This article exempts nonprofit charitable organizations from license fees based on written proof and verification of nonprofit status, which must be filed with the city's planning and code enforcement department by an authorized representative of the organization.

This chapter shall not apply to **mobile** vendors, sales made by commercial travelers or selling agents in the usual course of business with bona fide dealers, bona fide sales of articles by sample for delivery at a future date, sales conducted pursuant to statute or by order of any court, bona fide auction sales conducted by an auctioneer duly licensed under state statutes or by order of any court, or persons selling or peddling the products of the farm or garden cultivated by such persons.

*(i)* Revocation.

Any license issued under the provisions of this article shall be subjected to revocation by the city planning and code enforcement department, and other departments, as necessary, upon satisfactory proof of a violation of the provisions of this article by such licensee; provided, however, that such licensee shall be given notice of such proposed revocation.

*(j)* Duration.

No license shall be issued or granted for more than a three-day continuous period. Applicants, including nonprofit charitable organizations, may renew licenses up to (4) four times a year. In the event special circumstances should arise requiring additional licenses to be issued to the applicant, such applicant, upon approval by the city planning department and the city commission, may receive an exemption to this section in writing allowing for the issuance of an additional license, which shall be secured following the specifications set forth in this chapter.

**PASSED AND APPROVED** on first reading at a regular meeting of the City Commission this 17<sup>th</sup> day of February, 2015.

**PASSED AND APPROVED** on second reading at a regular meeting of the City Commission this 3<sup>rd</sup> day of March, 2015.

**CITY OF WESLACO**  
/s/ David Suarez, **MAYOR**

**ATTEST:**

/s/ Elizabeth M Walker, **CITY SECRETARY**

**APPROVED AS TO FORM:**

/s/ Frank Garza, **CITY ATTORNEY**

**IV. APPOINTMENTS**

- A. Discussion and consideration to approve Resolution 2015-21 appointing one member to an expired term on the Ambulance Advisory Board and authorize the Mayor to execute any related documents. Possible action. (Staffed by Fire Department.) Attachment.

In response to Mayor Pro-Tem Noriega, the City Secretary stated no contact had been received from Mr. Fred McCaleb.

Commissioner Pena, seconded by Mayor Pro-Tem Noriega, moved to approve Resolution 2015-21 appointing Patrick Kennedy to an expired term on the Ambulance Advisory Board pending confirmation of his letter of interest on file, and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

- B. Discussion and consideration to approve Resolutions 2015-22, 2015-23, 2015-24, 2015-25, 2015-26, 2015-27, and 2015-28 appointing inaugural members to the Hotel Occupancy Tax Advisory Committee and authorize the Mayor to execute any related documents. Possible action. (Staffed by Finance Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Pena, moved to table this item until the next meeting. The motion carried unanimously; Mayor Suarez was present and voting.

**V. OLD BUSINESS**

- A. Discussion and consideration to approve a Special Services Agreement on Hotel/Motel Room Occupancy Tax Proceeds between the City of Weslaco and the Economic Development Corporation of Weslaco. Possible action. (This item was tabled on February 17, 2015; Requested by Economic Development Corporation of Weslaco.) Attachment.

The Interim City Manager recommended this item remain tabled. There was no action on this item.

**VI. NEW BUSINESS**

- A. Discussion and consideration to approve Ordinance 2015-09 establishing a Hotel Occupancy Tax Advisory Committee and authorize the Mayor to execute any related documents. First Reading of Ordinance 2015-09. Possible action. (Staffed by

Finance Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve Ordinance 2015-09 establishing a Hotel Occupancy Tax Advisory Committee and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

- B. Discussion and consideration to award the 125 Cafeteria Plan Voluntary Supplemental Insurance Products to the best qualified, most advantageous bidder(s), authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Human Resources Department.) Attachment.

Commissioner Fox abstained from discussion and vote with his Conflict Interest Statement filed prior to the meeting.

Mayor Pro-Tem Noriega, seconded by Commissioner Pena, moved to award Vision Insurance to Eyetopia with Gilbert Gonzalez as the agent; Voluntary Term Life Insurance and Dental Insurance to Lincoln Financial Group with Carlos Tamez as the agent; Hospital Indemnity, Critical Illness, Cancer, and Accidental to Colonial Life with Carlos Tamez as the agent; Disability Insurance to Unum with Carlos Tamez as the agent; authorized a budget amendment as appropriate, and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

Mr. Dennis Grubbs stated that the critical illness policy covers heart and stroke and the whole life policy cannot guarantee the interest rate; at his and staff recommendation, there was no action to award any Whole Life and Heart and Stroke insurance products. He added that all other products have providers locally within network.

The City Manager clarified that for the disability insurance, though three vendors responded with the same, the Mayor Pro-Tem identified Carlos Tamez as agent; Mayor Pro-Tem Noriega stated she selected Carlos Tamez as the agent for the multiple products for the convenience of the employees.

Mayor Pro-Tem Noriega, seconded by Commissioner Pena, moved to remain with New York Life with Aurora Saenz as the agent for the Long Term Care product. The motion carried unanimously with Commissioner Fox abstained; Mayor Suarez was present and voting.

The City Attorney later opined a clarification that this action merely enables New York Life to maintain her business relationship with the twelve employees with whom she already has a contract, stating, "Regarding the Long Term Care, Mrs. Saenz was allowed to remain as the agent with her current 12 insureds, however, the vote did not authorize for her to be given access to offer products which she did not

submit per the Request For Proposals to any city employees.”

- C. Discussion and consideration to approve the close-out of contract for construction services performed by Texas Cordia Construction, LLC for Sugarcane Drive Road improvements, authorize final payment of any outstanding invoices in an amount not to exceed \$73,368.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Fox, moved to begin discussion on this item.

Commissioner Tafolla lamented there already are four patches with the road is just three months old; Mr. Mardoqueo Hinojosa assured the road is under warranty through October this year, one year from the date of substantial completion. Commissioner Pena noted that he relied on TEDSI as the engineer and requested the same firm make a recommendation on next steps to redress. Commissioner Tafolla withdrew his motion.

Commissioner Tafolla, seconded by Commissioner Pena, moved to table this item until the first meeting in April. The motion carried unanimously; Mayor Suarez was present and voting.

- D. Discussion and consideration to approve the close-out of contract for construction materials testing performed by Millennium Engineers Group, Inc, for Sugarcane Drive Road improvements, authorize final payment of any outstanding invoices in an amount not to exceed \$18,469.48, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Pena, moved to table this item until the first meeting in April. The motion carried unanimously; Mayor Suarez was present and voting.

- E. Discussion and consideration to approve the close-out of contract for design and construction services performed by TEDSI Infrastructure Group for Sugarcane Drive Road improvements authorize final payment of any outstanding invoices in an amount not to exceed \$10,000.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Planning and Code Enforcement Department.) Attachment.

Commissioner Tafolla, seconded by Commissioner Pena, moved to table this item until the first meeting in April. The motion carried unanimously; Mayor Suarez was present and voting.

- F. Discussion and consideration to award the best qualified, most advantageous bidder

for internet services submitted in response to the Request for Proposal within the E-Rate Year 18 Cycle (FY 2015-2016) and authorize the Mayor to execute any related documents. Possible action. (Staffed by Library Department.) Attachment.

Commissioner Pena, seconded by Commissioner Fox, moved to approve this item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

Mr. Arnold Becho stated the only qualified bid was received from Smartcom, which offered a good rate at \$950.00 per month and 100x100 megabites/second. Mr. Becho recommended Smartcom as the most advantageous bidder.

Commissioner Pena, seconded by Commissioner Rivera, amended the motion to award Smartcom as the best qualified, most advantageous bidder in response to the Request for Proposal within the E-Rate Year 18 Cycle (FY 2015-2016) and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

The original motion carried unanimously; Mayor Suarez was present and voting.

- G. Discussion and consideration to award the best qualified, most advantageous bidder for basic network maintenance of internal connections, equipment, and other computer services submitted in response to the Request for Proposal within the E-Rate Year 18 Cycle (FY 2015-2016) and authorize the Mayor to execute any related documents. Possible action. (Staffed by Library Department.) Attachment.

Commissioner Pena, seconded by Commissioner Kerr, moved to approve this item as presented.

Mr. Arnold Becho recommended Insight at the best qualified, most advantageous bidder, which provides better equipment at a cost increase of \$2,000.00 for the City. He recommended the award since the grant funding is sporadic and unpredictable, saying it is better to get the equipment now since there are no assurances when or if the funding will return.

Commissioner Pena, seconded by Commissioner Rivera, amended the motion to award Insight as the best qualified, most advantageous bidder for basic network maintenance of internal connections, equipment, and other computer services submitted in response to the Request for Proposal within the E-Rate Year 18 Cycle (FY 2015-2016) and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

The original motion carried unanimously; Mayor Suarez was present and voting.

- H. Discussion and consideration to approve the solicitation of Request for Proposals for the Operations and Management of the City of Weslaco's Water Plant, Wastewater Plant, and Lift Station Operations. Possible action. (Staffed by Public Utilities



Department.) Attachment.

Commissioner Fox abstained from discussion and vote with his Conflict Interest Statement filed prior to the meeting.

Commissioner Tafolla, seconded by Commissioner Rivera, moved to approve the solicitation of Request for Proposals for the Operations and Management of the City of Weslaco's Water Plant, Wastewater Plant, and Lift Station Operations.

The City Manager stated that upon approval, the advertisement of the solicitation will publish within ten days; staff will submit a proposal. Mayor Suarez recommended including a five-year term in the Request for Proposal (RFP).

Commissioner Tafolla withdrew the motion.

Commissioner Tafolla, seconded by Commissioner Pena, moved to approve the solicitation of Request for Proposals with a five-year contract term for the Operations and Management of the City of Weslaco's Water Plant, Wastewater Plant, and Lift Station Operations. The motion carried with Commissioner Fox abstained; Mayor Suarez was present and voting.

- I. Discussion and consideration to award the purchase of two (2) Recycling Trailers based on RFB No. 2014-15-16 to the most advantageous bidder in the combined cost not to exceed \$22,000.00, authorize a budget amendment as appropriate, and authorize the Mayor to execute any related documents. Possible action. (Staffed by Public Facilities Department.) Attachment.

Ms. Olga Garza stated three bids had been received; she recommended the second lowest bid, as the other bid did not meet all of the specifications. In response to Commissioner Tafolla, Ms. Garza stated it would take about a month to set up the trailers, as they are custom-made and can be operated like a pallet with a forklift. She added one trailer would be located at Harlon Block Park and the other would be rotated around various trailer parks in Weslaco.

Commissioner Fox, seconded by Commissioner Tafolla, moved to award the purchase of two (2) Recycling Trailers based on RFB No. 2014-15-16 to Mr. Victor's as the most advantageous bidder in the combined cost not to exceed \$22,000.00, authorized a budget amendment as appropriate, and authorized the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

This expenditure is grant-funded.

- J. Discussion and consideration to approve the solicitation of sealed bids for the purchase of two (2) 2015 Harley Davidson FLHTP motorcycles in an amount not to exceed \$42,000.00, authorize a budget amendment as appropriate, and authorize the

Mayor to execute any related documents. Possible action. (Staffed by Police Department.) Attachment.

In response to Commissioner Pena, Captain Ted Walensky recommended the initial investment in two motorcycles. Commissioner Tafolla expressed concern that Harley Davidson motorcycles would not last as long as Honda motorcycles as they are constantly breaking down; however, Captain Walensky pointed out that the mounting equipment works much better with the Harley Davidson motorcycles. The Interim City Manager recommended the Harley Davidson motorcycles, as recent reports have shown newer models to be of much better quality, and are safer.

In response to Commissioner Tafolla, Mayor Suarez clarified seizure funds would be used to purchase the motorcycles and requested consideration to use the same funds to maintain the motorcycles. Current officers will use them.

Commissioner Pena, seconded by Commissioner Fox, moved to approve the item as presented. The motion carried unanimously; Mayor Suarez was present and voting.

- K. Discussion and consideration to reappoint Samuel Sanchez as Municipal Court Associate Judge and authorize the Mayor to execute any related documents. Possible action. (Requested by Commissioners Rivera and Fox; staffed by Municipal Court.) Attachment.

Commissioner Fox, seconded by Commissioner Tafolla, moved to reappoint Samuel Sanchez as Municipal Court Associate Judge and authorized the Mayor to execute any related documents. The motion failed with the Mayor, Mayor Pro-Tem Noriega and Commissioners Pena and Kerr against (3-4); Mayor Suarez was present and voting.

The Mayor noted the Request for Qualifications continues.

- L. Discussion and consideration to amend the Professional Services Agreement for Legal Services as City Attorney to exclude prosecution duties, award a contract for the retention of City Prosecutor, and authorize the Mayor to execute any related documents. Possible action. (Requested by Commissioner Pena and Mayor Pro-tem; staffed by Municipal Court.) Attachment.

There was no action on this item.

- M. Discussion and consideration to authorize a budget amendment in amount not to exceed \$150,000.00 from the Water Fund for the Boys and Girls Club construction project. Possible action. (Staffed by Public Utilities Department.) Attachment.

Mr. David Salinas stated the budget amendment would come out of the retained earnings of water funds needed to service the Boys and Girls Club project; the City Manager clarified this is not part of the shortfall on the project, rather work to loop

dead end lines in the area, which in turn should improve water pressure for the surrounding neighborhood.

Commissioner Pena, seconded by Commissioner Rivera, moved to authorize a budget amendment in amount not to exceed \$150,000.00 from the Water Fund for the Boys and Girls Club construction project. The motion carried unanimously; Mayor Suarez was present and voting.

- N. Discussion and consideration to approve an amendment to the Development Agreement with the Economic Development Corporation of Weslaco regarding the Business, Visitor and Event Center and authorize the Mayor to execute any related documents. Possible action. (Staffed by City Attorney.) Attachment.

The City Attorney stated this modification abandons the development agreement with DKIII for the southeast corner of the building; any other development agreement would come to the Commission for authorization.

Mayor Pro-Tem Noriega, seconded by Commissioner Pena, moved to approve an amendment to the Development Agreement with the Economic Development Corporation of Weslaco regarding the Business, Visitor and Event Center and authorize the Mayor to execute any related documents. The motion carried unanimously; Mayor Suarez was present and voting.

## **VII. EXECUTIVE SESSION**

At 6:51 p.m., the Mayor announced the regular meeting to convene in Executive Session. At 8:07 p.m., the Mayor announced the City Commission had completed its Executive Session and reconvened the regular meeting as open to the public.

## **VIII. POSSIBLE ACTION ON WHAT IS DISCUSSED IN EXECUTIVE SESSION**

- A. Personnel - Discussion with the Interim City Manager regarding the Police Chief and Fire Chief applicants as authorized by §551.074 of the Texas Government Code.

There was no action taken on this item.

- B. Personnel - Discussion regarding the goals, objectives, and evaluation of the Interim City Manager for the City of Weslaco as authorized by §551.074 of the Texas Government Code.

There was no action on this item.

- C. Pending Litigation – Discussion with the City Attorney regarding Cause No. CL-15-0412-G *Maricruz Magana and Esmelinda Magana et al. v. City of Weslaco and Alejandra Vanessa Baez-Garcia* in Hidalgo County, Texas as authorized by §551.071 of The Texas Government Code.

There was no action on this item.

- D. Pending Litigation - Consultation with City Attorney regarding Docket No. CL14-2629-G, *Adela Mireles Gonzalez v. Davis Real Estate RGV, LLC, Serafin Vazquez, Angeles D. Vazquez, and the City of Weslaco* as authorized by §551.071 of the Texas Government Code.

Commissioner Kerr noted his abstention from participation in Executive Session on this item with his Conflict Interest Statement filed prior to the meeting. There was no action on this item.

- E. Pending Litigation – Discussion with City Attorney regarding Cause No. CCD-0033-F In The Matter of Proceedings By The City of Weslaco, Texas for The Condemnation of Certain Property of Ricardo Oliva pursuant to §551.071 of the Texas Government Code.

Commissioner Kerr noted his abstention from participation in Executive Session on this item with his Conflict Interest Statement filed prior to the meeting.

Commissioner Pena, seconded by Mayor Pro-Tem Noriega, moved to authorize the City Attorney to proceed as directed in Executive Session. The motion carried unanimously; Mayor Suarez was present and voting.

## **IX. ADJOURNMENT**

With no other business before the Commission, at 8:08 p.m. Commissioner Pena, seconded by Commissioner Tafolla, moved to adjourn the March 3, 2015 regular meeting. The motion carried unanimously; Mayor Suarez was present and voting.

CITY OF WESLACO

\_\_\_\_\_  
MAYOR, David Suarez

ATTEST:

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CITY SECRETARY, Elizabeth Walker

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MAYOR PRO-TEM, Olga Noriega

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COMMISSIONER, David R. Fox

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COMMISSIONER, Greg Kerr

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COMMISSIONER, Gerardo “Jerry” Tafolla

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COMMISSIONER, Lupe Rivera

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COMMISSIONER, Fidel L. Pena, III